

## Courtroom Minute Entry

**Room:** Judge Tinsley Charleston  
**Caption:** USA v. Theodore Miller

**Case No.:** 2:24-cr-00145  
**Judge:** Judge Aboulhosn

**Type:** Pretrial Motions

**Started:** 10/3/2024 10:52:15 AM

**Ends:** 10/3/2024 11:50:31 AM

**Length:** 00:58:17

10:52:20 AM Judge Omar Aboulhosn  
10:52:20 AM Courtroom Deputy Tammy Davis  
10:52:21 AM Court Reporter: Court Smart and via Teams  
10:52:22 AM AUSA Holly J. Wilson  
10:52:23 AM AFD David R. Bungard  
10:52:24 AM Defendant Theodore Miller  
10:52:24 AM SrUSPO Kiara Carper  
10:52:25 AM USPO Olivya Jones  
10:52:29 AM **PRETRIAL MOTIONS HEARING - ECF DOCS. 42 AND 44**  
11:03:31 AM Judge Omar Aboulhosn  
11:03:34 AM Calls case.  
11:03:43 AM Counsel please note your appearances for the record.  
11:03:44 AM AUSA Holly J. Wilson  
11:03:45 AM Notes appearance on behalf of the United States.  
11:03:46 AM AFD David R. Bungard  
11:03:47 AM Notes appearance on behalf of the defendant who is to my right.  
11:03:50 AM Judge Omar Aboulhosn  
11:03:53 AM Counsel, we are here for a couple motions.  
11:04:02 AM The United States filed Motion for Disclosure of Defendant's Financial Affidavits and also a  
11:04:35 AM Motion for Entry of Protective Order.  
11:05:05 AM The defendant has filed Responses.  
11:05:12 AM The Court outlines its concerns regarding the eligibility of appointed counsel.  
11:05:54 AM AUSA Holly J. Wilson  
11:05:56 AM Addresses the Court.  
11:08:09 AM Judge Omar Aboulhosn  
11:08:10 AM Discusses the factual determination of appointing the Federal Public Defenders Office and possibly  
11:08:43 AM requiring the defendant to contribute towards attorney's fees.  
11:08:48 AM That is assuming he does not qualify.  
11:08:54 AM AUSA Holly J. Wilson  
11:08:56 AM The United States does not have a position on whether he qualifies or not, your honor.  
11:09:10 AM Judge Omar Aboulhosn  
11:09:12 AM What about the process of the Court making that determination and there is an attempt to commit  
11:09:55 AM fraud by the defendant and then the Court referring that to the United States?  
11:10:12 AM AUSA Holly J. Wilson  
11:10:14 AM Addresses the Court.  
11:10:24 AM Discusses the information that government has regarding financial information that the Court does  
11:10:55 AM not have.  
11:11:02 AM Judge Omar Aboulhosn  
11:11:03 AM Discusses the CJA Rules.  
11:11:21 AM AUSA Holly J. Wilson  
11:11:22 AM I do not believe there is any rule requiring that to be placed under seal.  
11:11:58 AM This fight is about disclosure not admissibility.  
11:12:21 AM I do not if I would even use them for impeachment.  
11:12:39 AM Discusses widespread discovery.  
11:13:00 AM This defendant lies - lies when its beneficial to him.  
11:13:28 AM Judge Omar Aboulhosn  
11:13:29 AM Discusses the financial affidavit filed to make the determination if he qualified for counsel.  
11:13:56 AM AUSA Holly J. Wilson  
11:13:57 AM I just want to add more context to the financial affidavits.  
11:15:03 AM Discusses the defendant inflating his wealth.  
11:16:06 AM Discusses using evidence at trial and impeachment.  
11:17:13 AM Judge Omar Aboulhosn

11:17:18 AM Mr. Bungard, I will hear from you.

11:17:28 AM AFD David R. Bungard

11:17:30 AM Addresses the Court.

11:18:20 AM Judge Omar Aboulhosn

11:18:29 AM Is the government entitled to the financial affidavits as to see if he has committed an additional

11:18:47 AM crime by lying on the financial affidavit.

11:19:09 AM To determine whether he has committed fraud?

11:19:20 AM AFD David R. Bungard

11:19:24 AM The second financial affidavit clarified the first financial.

11:19:52 AM Judge Omar Aboulhosn

11:19:54 AM I don't for see removing you as counsel. If anything, the defendant would be required to contribute

11:20:16 AM towards attorney's fees.

11:20:58 AM AFD David R. Bungard

11:20:59 AM The argument that he made himself seem poor is not correct.

11:21:29 AM Judge Omar Aboulhosn

11:21:32 AM Discusses the first financial.

11:21:41 AM Then he filed an amended financial.

11:22:09 AM Discuss prohibition.

11:22:34 AM AFD David R. Bungard

11:22:37 AM Addresses the Court.

11:27:12 AM Judge Omar Aboulhosn

11:27:15 AM That is a valid point. Discusses chilling future case.

11:27:42 AM There is a competing interest here.

11:28:22 AM Discusses the example when defense counsel does not allow the defendant to answer certain questions

11:28:50 AM in the pretrial interview say for instance, drug abuse. That hinders the Court.

11:30:35 AM AFD David R. Bungard

11:30:38 AM Continues addressing the Court.

11:31:51 AM Judge Omar Aboulhosn

11:31:53 AM At the same time, the Court needs to know that the defendant is being forthright in disclosure of finances.

11:32:32 AM The Court understands the cost of defense in federal court.

11:32:56 AM AUSA Holly J. Wilson

11:32:59 AM This isn't just about the revision of the financial affidavit, your honor.

11:33:29 AM Judge Omar Aboulhosn

11:33:31 AM The financial affidavit is an extremely vague form.

11:33:53 AM AUSA Holly J. Wilson

11:33:56 AM The revision is just pushing this over the edge.

11:34:19 AM Discusses the use of immunity.

11:36:23 AM Judge Omar Aboulhosn

11:36:24 AM The Court will take motion that under advisement.

11:36:41 AM Discusses a chilling effect in the future.

11:37:16 AM Let's talk about the next motion, the Protective Order.

11:38:27 AM Take a look of paragraph number 10 in red.

11:38:42 AM Discusses paragraph 11.

11:39:06 AM The government says we don't want any of those changes, is that correct?

11:39:20 AM AUSA Holly J. Wilson

11:39:22 AM Correct.

11:39:31 AM Discusses the Protective Order.

11:40:11 AM Judge Omar Aboulhosn

11:40:16 AM Defense counsel is an officer of the Court.

11:40:38 AM AFD David R. Bungard

11:40:41 AM Addresses the Court.

11:42:22 AM Judge Omar Aboulhosn

11:42:24 AM I get the concern defense counsel has. To be held responsible for every action of his client.

11:44:30 AM AUSA Holly J. Wilson

11:44:31 AM Does he have an obligation to supervise his client?

11:44:48 AM Judge Omar Aboulhosn

11:44:50 AM Yes.

11:44:57 AM AFD David R. Bungard

11:44:59 AM When he is in your presence, he is not taking notes or keeping notes.

11:45:20 AM Judge Omar Aboulhosn

11:45:22 AM I will grant the Protective Order granted as requested by defense counsel.

11:45:41 AM Now, let's talk about what Judge Berger has referred back to me.

11:46:07 AM I will be asking probation to do a complete financial background.  
11:47:07 AM None of that will be disclosed to the government.  
11:47:35 AM AUSA Holly J. Wilson  
11:47:38 AM Addresses the Court.  
11:47:42 AM As to an ex parte hearing being the solution.  
11:47:53 AM Judge Omar Aboulhosn  
11:47:56 AM Any misrepresentation to the Court would then be referred to the government if I believe he has done  
11:48:31 AM that. I will ask defendant and counsel to meet with probation - to get his credit report.  
11:48:59 AM To have a better understanding of his financial situation.  
11:49:08 AM The Court discusses a possible ex parte hearing without the government present.  
11:49:51 AM Granting the modification as suggested by defendant.  
11:50:01 AM The other motion will be taken under advisement.  
11:50:12 AM Is there anything else the Court needs to take of today counsel?  
11:50:26 AM The defendant is remanded to Marshal custody.  
Hearing adjourned.